

REFERENCE TITLE: motion picture tax credit; accountability

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2322

Introduced by
Representatives Reagan, Kirkpatrick, Konopnicki, Senators Allen, Leff,
Waring: Representatives Cajero Bedford, McComish, Senator Blendu

AN ACT

AMENDING SECTIONS 41-1517, 42-2003, 43-1075 AND 43-1163, ARIZONA REVISED
STATUTES; RELATING TO MOTION PICTURE PRODUCTION TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-1517, Arizona Revised Statutes, is amended to
3 read:
4 41-1517. Motion picture production tax incentives; duties;
5 definitions
6 A. From and after December 31, 2005 through December 31, 2010, the
7 department of commerce shall qualify motion picture production companies that
8 produce one or more motion pictures in this state for motion picture
9 production tax incentives, subject to the following requirements and
10 conditions:
11 1. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, a motion
12 picture production company must incur production costs in this state of at
13 least two hundred fifty thousand dollars in producing one or more motion
14 pictures during each twelve month period for which it is qualified for the
15 tax incentives.
16 2. For the purpose of this section, production costs are limited to
17 and subject to the following conditions:
18 (a) Salaries and other compensation for talent, management and labor
19 paid to residents of this state, as defined by section 43-104.
20 (b) A story and scenario to be used for a motion picture.
21 (c) Set construction and operations, wardrobe, props, accessories and
22 related services in this state. Expenses paid for construction contracts are
23 limited to contractors who are licensed under title 32, chapter 10.
24 (d) Photography, sound synchronization, lighting and related costs
25 incurred in this state.
26 (e) Editing and related services performed in this state.
27 (f) Rental of facilities and equipment in this state.
28 (g) Catered food, drink and condiment purchased in this state.
29 (h) Other direct in-state costs of producing the motion picture,
30 pursuant to rules adopted by the department of revenue that follow generally
31 accepted accounting standards for the motion picture industry.
32 (i) Payments for penalties and fines do not qualify as production
33 costs.
34 3. A motion picture production company or its authorized payroll
35 service company must employ residents of this state in its production
36 activities as follows:
37 (a) In 2006, at least twenty-five per cent of full-time employees
38 working in this state must be residents of this state.
39 (b) In 2007, at least thirty-five per cent of full-time employees
40 working in this state must be residents of this state.
41 (c) In 2008 and every subsequent taxable year, at least fifty per cent
42 of full-time employees working in this state must be residents of this state.
43 4. A motion picture production company must submit a completed
44 application pursuant to subsection B or ~~I~~ J of this section. An application
45 is complete on receipt of all requested information.

1 5. A motion picture production company must include in the credits for
2 each motion picture, other than a commercial advertisement, an
3 acknowledgement that the production was filmed in ~~this state~~ ARIZONA.
4 B. A motion picture production company initially applying for
5 qualification under this section must report the following to the department
6 of commerce on a form and in a manner prescribed by the department, with the
7 cooperation of the department of revenue:
8 1. The name, address, telephone number and web site of the motion
9 picture production company.
10 2. The name and address of an individual who will maintain records of
11 expenditures in this state.
12 3. The projected first preproduction date and last production date in
13 this state.
14 4. The production office address and office telephone number in this
15 state.
16 5. The estimated total budget of the production.
17 6. The estimated total expenditures in this state.
18 7. The estimated total percentage of the production taking place in
19 this state.
20 8. The estimated level of employment of residents of this state in the
21 cast and crew.
22 9. A script, including a synopsis, the proposed director and a
23 preliminary list of the cast and producer, **EXCEPT THAT, WITH RESPECT TO A**
24 **TELEVISION PILOT OR SERIES, A COMMERCIAL ADVERTISEMENT OR A MUSIC VIDEO, NO**
25 **SCRIPT IS REQUIRED.**
26 10. A signed affirmation from the applicant that:
27 (a) The motion picture production company agrees to furnish records of
28 expenditures in this state to the department of revenue on request.
29 (b) Any items purchased with a certification issued under section
30 42-5009, subsection H are intended for use by the applicant directly in
31 motion picture production.
32 C. The department of commerce shall review all applications within
33 thirty days after submission pursuant to subsection B or ~~I~~ J of this section
34 to determine whether the motion picture production company satisfies all of
35 the criteria provided in subsection A of this section and shall establish the
36 process by which the department qualifies and preapproves a company for
37 motion picture production tax incentives. This process shall preapprove a
38 company for motion picture production tax incentives based on priority
39 placement established by the date that such motion picture production company
40 filed its initial application for qualification with the department.
41 D. If, **WITHIN FOUR MONTHS AFTER THE DEPARTMENT PREAPPROVES** a company,
42 **THE COMPANY** fails to begin production, ~~within four months after the~~
43 ~~department preapproves the company or~~ fails to provide notice pursuant to
44 this subsection **OR FAILS TO SPEND AT LEAST TWENTY PER CENT OF THE ESTIMATED**
45 **TOTAL BUDGET OF THE PRODUCTION**, the preapproval lapses, the application is

1 void and the amount of the preapproved incentives does not apply ~~to~~ AGAINST
2 the dollar limit prescribed by subsection E of this section for that year,
3 UNLESS THE COMPANY HAS OBTAINED A COMPLETION BOND FOR THE PRODUCTION OF THE
4 MOTION PICTURE FOR WHICH THE COMPANY WAS PREAPPROVED. THE PREAPPROVED AMOUNT
5 APPLIES AGAINST THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION E OF THIS SECTION
6 FOR THE YEAR IN WHICH THE APPLICATION WAS SUBMITTED REGARDLESS OF WHETHER THE
7 INITIAL PREAPPROVAL OR REALLOCATION PERIOD EXTENDS INTO THE FOLLOWING
8 YEAR. BEFORE THE EXPIRATION OF THE INITIAL PREAPPROVAL OR REALLOCATION
9 PERIOD, A COMPANY MAY VOLUNTARILY RELINQUISH UNUSED CREDIT AMOUNTS FOR
10 REALLOCATION BY THE DEPARTMENT TO OTHER COMPANIES THAT APPLIED IN THE
11 ORIGINAL CREDIT YEAR, AND THE AMOUNT OF THOSE REALLOCATED CREDITS CONTINUE TO
12 APPLY AGAINST THE DOLLAR LIMIT OF THE ORIGINAL CREDIT YEAR. The department
13 ~~of commerce~~ may conduct a site visit to verify that production has
14 begun. Within four months after the department preapproves the company's
15 initial application, the company must submit notice to the department ~~of~~
16 ~~commerce~~ that production has begun and provide at least one of the following:
17 1. A copy of a contract, loan out agreement or deal memo with a
18 cameraman and crew.
19 2. A copy of the crew call sheet for the first day of production.
20 3. Evidence that residents of this state have been paid a total of at
21 least five thousand dollars for work on the preapproved motion picture.
22 4. A copy of a contract or agreement directly attributable to the
23 preapproved motion picture.
24 E. SUBJECT TO THE REQUIREMENTS OF SUBSECTION F OF THIS SECTION, the
25 department shall not preapprove income tax credits exceeding a total of:
26 1. Thirty million dollars ~~in~~ FOR 2006.
27 2. Forty million dollars ~~in~~ FOR 2007.
28 3. Fifty million dollars ~~in~~ FOR 2008.
29 4. Sixty million dollars ~~in~~ FOR 2009.
30 5. From and after December 31, 2009, seventy million dollars ~~in~~ FOR a
31 single year.
32 6. Five million dollars for an individual motion picture application.
33 F. FIVE PER CENT OF THE MAXIMUM DOLLAR AMOUNT OF INCOME TAX CREDITS
34 PRESCRIBED FOR ANY YEAR BY SUBSECTION E OF THIS SECTION IS RESERVED FOR USE
35 WITH RESPECT TO COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTIONS.
36 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT OF
37 COMMERCE SHALL PRESCRIBE DISTINCT RULES CONSISTENT WITH THIS SUBSECTION FOR
38 QUALIFYING COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTIONS FOR TAX
39 INCENTIVES AND CERTIFYING THE AMOUNT OF ELIGIBLE PRODUCTION COSTS TO THE
40 DEPARTMENT OF REVENUE. A COMMERCIAL ADVERTISEMENT OR MUSIC VIDEO PRODUCTION
41 COMPANY MAY AGGREGATE ITS ANNUAL PRODUCTION COSTS OF ALL COMMERCIAL AND MUSIC
42 VIDEO PRODUCTIONS IN THIS STATE DURING THE YEAR IN ORDER TO MEET THE
43 THRESHOLD REQUIREMENTS OF SUBSECTION A, PARAGRAPH 1 OF THIS SECTION.

1 ~~F.~~ G. After October 31 of each year, if the department has
2 preapproved the maximum calendar year tax credit amount pursuant to
3 subsection E of this section, the department may accept initial applications
4 for the next calendar year. The preapproval of any application pursuant to
5 this subsection shall not be effective prior to the first business day of the
6 following calendar year.

7 ~~G.~~ H. The department of commerce shall deny an application submitted
8 pursuant to subsection B or ~~I.~~ J of this section if it determines that:

9 1. The motion picture production company does not meet all of the
10 established criteria provided in subsection A of this section.

11 2. The production would constitute an obscene motion picture film or
12 obscene pictorial publication under title 12, chapter 7, article 1.1.

13 3. The production depicts sexual activity as defined in title 13,
14 chapter 35.

15 4. The production would constitute sexual exploitation of a minor or
16 commercial sexual exploitation of a minor under title 13, chapter 35.1.

17 ~~H.~~ I. On a determination by the department of commerce that a motion
18 picture production company qualifies for motion picture production tax
19 incentives, the department shall issue the company a written letter of
20 qualification and transmit a copy of the letter to the department of revenue.
21 A letter of qualification is effective for twelve consecutive months as
22 stated in the letter.

23 ~~I.~~ J. A motion picture production company that applies for
24 requalification must continue to meet all of the eligibility criteria
25 provided under subsection A of this section and must provide the department
26 of commerce with updated information on the location, ownership and
27 operations of the business. For purposes of efficiency and reducing
28 duplicative or redundant reporting duties, the department may establish a
29 streamlined process for requalification.

30 ~~J.~~ K. Upon completion of ALL OR PART OF the motion picture
31 production, a motion picture production company that qualifies for the motion
32 picture tax incentives shall certify to the department the total amount of
33 eligible production costs associated with the project incurred from and after
34 December 31, 2005. From and after June 30, 2006, the department shall
35 provide approval to a motion picture production company that it has met the
36 eligibility requirements of this section and shall notify the department of
37 revenue that a motion picture production company may claim the tax credits
38 pursuant to sections 43-1075 and 43-1163. If the eligible production costs
39 actually incurred are less than the amount preapproved for income tax
40 credits, the preapproved amount not incurred lapses and does not apply ~~to~~
41 AGAINST the dollar limit prescribed by subsection E of this section for that
42 year.

43 L. IF A PREAPPROVED MOTION PICTURE PRODUCTION COMPANY FAILS TO
44 UNDERTAKE PRODUCTION, AS DESCRIBED IN SUBSECTION D OF THIS SECTION, AND ALSO
45 FAILS TO VOLUNTARILY RELINQUISH THE UNUSED CREDIT AMOUNTS FOR REALLOCATION BY

1 THE DEPARTMENT AS PROVIDED BY SUBSECTION D OF THIS SECTION WITHIN THE
2 FOUR-MONTH PERIOD, THE COMPANY AND ALL OFFICERS, DIRECTORS AND OWNERS OF THE
3 COMPANY, AND ALL PRODUCERS LISTED IN THE APPLICATION FOR PREAPPROVAL, ARE
4 DISQUALIFIED FROM RECEIVING, OR PARTICIPATING IN ANY MOTION PICTURE
5 PRODUCTION COMPANY THAT APPLIES FOR, OR RECEIVES, TAX INCENTIVES PURSUANT TO
6 THIS SECTION FOR THREE YEARS AFTER THE ORIGINAL APPLICATION.

7 ~~K.~~ M. The department of commerce, with the cooperation of the
8 department of revenue, shall adopt rules and publish and prescribe forms and
9 procedures as necessary to effectuate the purposes of this section.

10 ~~L.~~ N. Any information gathered from motion picture production
11 companies for the purposes of this section shall be considered confidential
12 taxpayer information and shall be disclosed only as provided in section
13 42-2003, subsection B, paragraph 12.

14 ~~M.~~ O. The department of commerce shall:

15 1. Keep annual records of the information provided on applications for
16 motion picture production tax incentives. These records shall reflect a
17 percentage comparison of the annual amount of monies exempted or credited to
18 qualifying motion picture production companies to the estimated amount of
19 monies spent on in-state production costs by motion picture production
20 companies.

21 2. Maintain annual data on growth in Arizona-based motion picture
22 industry companies and motion picture industry employment and wages.

23 3. Not later than December 1 of each year, prepare and publish a
24 report summarizing the information collected pursuant to this subsection.
25 The department shall make copies of the annual report available to the public
26 on request.

27 ~~N.~~ P. For the purposes of this section:

28 1. "COMMERCIAL ADVERTISEMENT" MEANS AN ADVERTISING MESSAGE DESIGNED
29 FOR DELIVERY THROUGH A VISUAL MEDIUM TO ATTRACT THE ATTENTION OF CONSUMERS OR
30 INFLUENCE CONSUMERS' FEELINGS TOWARD A PARTICULAR PRODUCT, SERVICE OR CAUSE.

31 ~~1.~~ 2. "Motion picture" means a single medium or multimedia program,
32 including a commercial advertising message, that:

33 (a) Is created by production activities conducted in whole or in part
34 in this state.

35 (b) Can be viewed or reproduced.

36 (c) Is intended for commercial distribution or licensing in the
37 delivery medium used.

38 ~~2.~~ 3. "Motion picture production company" OR "PRODUCTION COMPANY"
39 means any person primarily engaged in the business of producing motion
40 pictures, INCLUDING COMMERCIAL ADVERTISEMENTS AND MUSIC VIDEOS, and that has
41 a physical business office and bank account in this state.

42 ~~3.~~ 4. "Motion picture production tax incentives" means the tax
43 deductions for transaction privilege and use taxes listed in section 42-5009,
44 subsection H and the credit against income taxes provided under section
45 43-1075 or 43-1163.

1 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:
2 42-2003. Authorized disclosure of confidential information
3 A. Confidential information relating to:
4 1. A taxpayer may be disclosed to the taxpayer, its successor in
5 interest or a designee of the taxpayer who is authorized in writing by the
6 taxpayer. A principal corporate officer of a parent corporation may execute
7 a written authorization for a controlled subsidiary.
8 2. A corporate taxpayer may be disclosed to any principal officer, any
9 person designated by a principal officer or any person designated in a
10 resolution by the corporate board of directors or other similar governing
11 body.
12 3. A partnership may be disclosed to any partner of the partnership.
13 This exception does not include disclosure of confidential information of a
14 particular partner unless otherwise authorized.
15 4. An estate may be disclosed to the personal representative of the
16 estate and to any heir, next of kin or beneficiary under the will of the
17 decedent if the department finds that the heir, next of kin or beneficiary
18 has a material interest which will be affected by the confidential
19 information.
20 5. A trust may be disclosed to the trustee or trustees, jointly or
21 separately, and to the grantor or any beneficiary of the trust if the
22 department finds that the grantor or beneficiary has a material interest
23 which will be affected by the confidential information.
24 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
25 to confidentiality either in writing or on the record in any administrative
26 or judicial proceeding.
27 7. The name and taxpayer identification numbers of persons issued
28 direct payment permits may be publicly disclosed.
29 B. Confidential information may be disclosed to:
30 1. Any employee of the department whose official duties involve tax
31 administration.
32 2. The office of the attorney general solely for its use in
33 preparation for, or in an investigation which may result in, any proceeding
34 involving tax administration before the department or any other agency or
35 board of this state, or before any grand jury or any state or federal court.
36 3. The department of liquor licenses and control for its use in
37 determining whether a spirituous liquor licensee has paid all transaction
38 privilege taxes and affiliated excise taxes incurred as a result of the sale
39 of spirituous liquor, as defined in section 4-101, at the licensed
40 establishment and imposed on the licensed establishments by this state and
41 its political subdivisions.
42 4. Other state tax officials whose official duties require the
43 disclosure for proper tax administration purposes if the information is
44 sought in connection with an investigation or any other proceeding conducted
45 by the official. Any disclosure is limited to information of a taxpayer who

1 is being investigated or who is a party to a proceeding conducted by the
2 official.

3 5. The following agencies, officials and organizations, if they grant
4 substantially similar privileges to the department for the type of
5 information being sought, pursuant to statute and a written agreement between
6 the department and the foreign country, agency, state, Indian tribe or
7 organization:

8 (a) The United States internal revenue service, alcohol and tobacco
9 tax and trade bureau of the United States treasury, United States bureau of
10 alcohol, tobacco, firearms and explosives of the United States department of
11 justice, United States drug enforcement agency and federal bureau of
12 investigation.

13 (b) A state tax official of another state.

14 (c) An organization of states, federation of tax administrators or
15 multistate tax commission that operates an information exchange for tax
16 administration purposes.

17 (d) An agency, official or organization of a foreign country with
18 responsibilities that are comparable to those listed in subdivision (a), (b)
19 or (c) of this paragraph.

20 (e) An agency, official or organization of an Indian tribal government
21 with responsibilities comparable to the responsibilities of the agencies,
22 officials or organizations identified in subdivision (a), (b) or (c) of this
23 paragraph.

24 6. The auditor general, in connection with any audit of the department
25 subject to the restrictions in section 42-2002, subsection D.

26 7. Any person to the extent necessary for effective tax administration
27 in connection with:

28 (a) The processing, storage, transmission, destruction and
29 reproduction of the information.

30 (b) The programming, maintenance, repair, testing and procurement of
31 equipment for purposes of tax administration.

32 8. The office of administrative hearings relating to taxes
33 administered by the department pursuant to section 42-1101, but the
34 department shall not disclose any confidential information:

35 (a) Regarding income tax, withholding tax or estate tax.

36 (b) On any tax issue relating to information associated with the
37 reporting of income tax, withholding tax or estate tax.

38 9. The United States treasury inspector general for tax administration
39 for the purpose of reporting a violation of internal revenue code section
40 7213A (26 United States Code section 7213A), unauthorized inspection of
41 returns or return information.

42 10. The financial management service of the United States treasury
43 department for use in the treasury offset program.

1 11. The United States treasury department or its authorized agent for
2 use in the state income tax levy program and in the electronic federal tax
3 payment system.

4 12. The department of commerce for its use in both:

5 (a) Qualifying motion picture production companies for the tax
6 incentives provided for motion picture production under chapter 5 of this
7 title and sections 43-1075 and 43-1163.

8 (b) Fulfilling its annual reporting responsibility pursuant to section
9 41-1517, subsection ~~0~~.

10 C. Confidential information may be disclosed in any state or federal
11 judicial or administrative proceeding pertaining to tax administration
12 pursuant to the following conditions:

13 1. One or more of the following circumstances must apply:

14 (a) The taxpayer is a party to the proceeding.

15 (b) The proceeding arose out of, or in connection with, determining
16 the taxpayer's civil or criminal liability, or the collection of the
17 taxpayer's civil liability, with respect to any tax imposed under this title
18 or title 43.

19 (c) The treatment of an item reflected on the taxpayer's return is
20 directly related to the resolution of an issue in the proceeding.

21 (d) Return information directly relates to a transactional
22 relationship between a person who is a party to the proceeding and the
23 taxpayer and directly affects the resolution of an issue in the proceeding.

24 2. Confidential information may not be disclosed under this subsection
25 if the disclosure is prohibited by section 42-2002, subsection C or D.

26 D. Identity information may be disclosed for purposes of notifying
27 persons entitled to tax refunds if the department is unable to locate the
28 persons after reasonable effort.

29 E. The department, upon the request of any person, shall provide the
30 names and addresses of bingo licensees as defined in section 5-401, verify
31 whether or not a person has a privilege license and number, a distributor's
32 license and number or a withholding license and number or disclose the
33 information to be posted on the department's web site or otherwise publicly
34 accessible pursuant to ~~sections~~ SECTION 42-1124, subsection F and SECTION
35 42-3201, subsection A.

36 F. A department employee, in connection with the official duties
37 relating to any audit, collection activity or civil or criminal
38 investigation, may disclose return information to the extent that disclosure
39 is necessary to obtain information which is not otherwise reasonably
40 available. These official duties include the correct determination of and
41 liability for tax, the amount to be collected or the enforcement of other
42 state tax revenue laws.

43 G. If an organization is exempt from this state's income tax as
44 provided in section 43-1201 for any taxable year, the name and address of the
45 organization and the application filed by the organization upon which the

1 department made its determination for exemption together with any papers
2 submitted in support of the application and any letter or document issued by
3 the department concerning the application are open to public inspection.

4 H. Confidential information relating to transaction privilege tax, use
5 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
6 be disclosed to any county, city or town tax official if the information
7 relates to a taxpayer who is or may be taxable by the county, city or town.
8 Any taxpayer information released by the department to the county, city or
9 town:

10 1. May only be used for internal purposes.

11 2. May not be disclosed to the public in any manner that does not
12 comply with confidentiality standards established by the department. The
13 county, city or town shall agree in writing with the department that any
14 release of confidential information that violates the confidentiality
15 standards adopted by the department will result in the immediate suspension
16 of any rights of the county, city or town to receive taxpayer information
17 under this subsection.

18 I. The department may disclose statistical information gathered from
19 confidential information if it does not disclose confidential information
20 attributable to any one taxpayer. In order to comply with the requirements
21 of section 42-5029, subsection A, paragraph 3, the department may disclose to
22 the state treasurer statistical information gathered from confidential
23 information, even if it discloses confidential information attributable to a
24 taxpayer.

25 J. The department may disclose the aggregate amounts of any tax
26 credit, tax deduction or tax exemption enacted after January 1, 1994.
27 Information subject to disclosure under this subsection shall not be
28 disclosed if a taxpayer demonstrates to the department that such information
29 would give an unfair advantage to competitors.

30 K. Except as provided in section 42-2002, subsection C, confidential
31 information, described in section 42-2001, paragraph 2, subdivision (a), item
32 (iii), may be disclosed to law enforcement agencies for law enforcement
33 purposes.

34 L. The department may provide transaction privilege tax license
35 information to property tax officials in a county for the purpose of
36 identification and verification of the tax status of commercial property.

37 M. The department may provide transaction privilege tax, luxury tax,
38 use tax, property tax and severance tax information to the ombudsman-citizens
39 aide pursuant to title 41, chapter 8, article 5.

40 N. Except as provided in section 42-2002, subsection D, a court may
41 order the department to disclose confidential information pertaining to a
42 party to an action. An order shall be made only upon a showing of good cause
43 and that the party seeking the information has made demand upon the taxpayer
44 for the information.

1 O. This section does not prohibit the disclosure by the department of
2 any information or documents submitted to the department by a bingo licensee.
3 Before disclosing the information the department shall obtain the name and
4 address of the person requesting the information.

5 P. If the department is required or permitted to disclose confidential
6 information, it may charge the person or agency requesting the information
7 for the reasonable cost of its services.

8 Q. Except as provided in section 42-2002, subsection D, the department
9 of revenue shall release confidential information as requested by the
10 department of economic security pursuant to section 42-1122 or 46-291.
11 Information disclosed under this subsection is limited to the same type of
12 information that the United States internal revenue service is authorized to
13 disclose under section 6103(1)(6) of the internal revenue code.

14 R. Except as provided in section 42-2002, subsection D, the department
15 of revenue shall release confidential information as requested by the courts
16 and clerks of the court pursuant to section 42-1122.

17 S. To comply with the requirements of section 42-5031, the department
18 may disclose to the state treasurer, to the county stadium district board of
19 directors and to any city or town tax official that is part of the county
20 stadium district confidential information attributable to a taxpayer's
21 business activity conducted in the county stadium district.

22 T. The department shall release confidential information as requested
23 by the attorney general for purposes of determining compliance with and
24 enforcing section 44-7101, the master settlement agreement referred to
25 therein and subsequent agreements to which the state is a party that amend or
26 implement the master settlement agreement. Information disclosed under this
27 subsection is limited to luxury tax information relating to tobacco
28 manufacturers, distributors, wholesalers and retailers and information
29 collected by the department pursuant to section 44-7101(2)(j).

30 U. For proceedings before the department, the office of administrative
31 hearings, the board of tax appeals or any state or federal court involving
32 penalties that were assessed against a return preparer or electronic return
33 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
34 information may be disclosed only before the judge or administrative law
35 judge adjudicating the proceeding, the parties to the proceeding and the
36 parties' representatives in the proceeding prior to its introduction into
37 evidence in the proceeding. The confidential information may be introduced
38 as evidence in the proceeding only if the taxpayer's name, the names of any
39 dependents listed on the return, all social security numbers, the taxpayer's
40 address, the taxpayer's signature and any attachments containing any of the
41 foregoing information are redacted and if either:

42 1. The treatment of an item reflected on such return is or may be
43 related to the resolution of an issue in the proceeding.

44 2. Such return or return information relates or may relate to a
45 transactional relationship between a person who is a party to the proceeding

1 and the taxpayer which directly affects the resolution of an issue in the
2 proceeding.

3 V. The department may disclose to the attorney general confidential
4 information received under section 44-7111 and requested by the attorney
5 general for purposes of determining compliance with and enforcing section
6 44-7111. The department and attorney general shall share with each other the
7 information received under section 44-7111, and may share the information
8 with other federal, state or local agencies only for the purposes of
9 enforcement of section 44-7101, section 44-7111 or corresponding laws of
10 other states.

11 Sec. 3. Section 43-1075, Arizona Revised Statutes, is amended to read:
12 43-1075. Credit for motion picture production costs;
13 definitions

14 A. Beginning from and after December 31, 2005 through December 31,
15 2010, a credit is allowed against the taxes imposed by this title for motion
16 picture production costs paid by a motion picture production company in this
17 state that are directly attributable to the production of one or more motion
18 pictures in this state. The amount of the credit is equal to a percentage of
19 the amount of motion picture production costs paid in this state as follows:

<u>Production costs</u>	<u>Percentage credit</u>
20 \$250,000 - \$1,000,000	10%
21 \$1,000,001 - \$3,000,000	15%
22 More than \$3,000,000	20%

23 B. The department shall not allow in any year tax credits that exceed
24 the aggregate amount prescribed in section 41-1517.

25 C. The department shall not allow a credit under this section to a
26 taxpayer who has a delinquent tax balance owing to the department under this
27 title or title 42.

28 D. To qualify for a credit under this section, the motion picture
29 production company must:

- 30 1. Employ residents of this state in production as follows:
- 31 (a) In 2006, twenty-five per cent of full-time employees working in
- 32 this state must be residents of this state.
- 33 (b) In 2007, thirty-five per cent of full-time employees working in
- 34 this state must be residents of this state.
- 35 (c) In 2008 and every subsequent taxable year, fifty per cent of
- 36 full-time employees working in this state must be residents of this state.

37 2. Include in the production credits for each commercial motion
38 picture, other than a commercial advertisement **OR MUSIC VIDEO**, an
39 acknowledgement that the production was filmed in Arizona.

40 3. Receive preapproval and postapproval from the department of
41 commerce pursuant to section 41-1517.

42 E. **A MOTION PICTURE PRODUCTION COMPANY THAT HAS RECEIVED A LETTER OF
43 QUALIFICATION AND IS APPROVED BY THE DEPARTMENT OF COMMERCE PURSUANT TO
44 SECTION 41-1517, SUBSECTIONS I AND K, AT ITS EXPENSE, MAY VOLUNTARILY SUBMIT
45**

1 TO AN AUDIT OF ITS PRODUCTION COSTS AND OTHER OPERATIONAL REQUIREMENTS
2 PRESCRIBED BY SECTION 41-1517 AND BY THIS SECTION, BY EITHER THE DEPARTMENT
3 OF REVENUE, PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7, OR BY AN INDEPENDENT
4 CERTIFIED PUBLIC ACCOUNTANT IN THIS STATE, TO CONFIRM ITS QUALIFICATION FOR A
5 CREDIT UNDER THIS SECTION. THE AUDITOR SHALL TRANSMIT CERTIFIED COPIES OF
6 THE FINDINGS AND CONCLUSIONS OF THE AUDIT TO THE DEPARTMENT OF COMMERCE, THE
7 DEPARTMENT OF REVENUE AND THE MOTION PICTURE PRODUCTION COMPANY. IF THE
8 AUDIT CONFIRMS THAT THE COMPANY QUALIFIES UNDER SECTION 41-1517 AND FOR THE
9 CREDIT UNDER THIS SECTION, THE CREDIT IS NOT SUBJECT TO RECAPTURE,
10 DISALLOWANCE, REDUCTION OR DENIAL WITH RESPECT TO EITHER THE MOTION PICTURE
11 PRODUCTION COMPANY OR TO ANY SUBSEQUENT TRANSFEREE OF THE CREDIT, AND
12 SUBSECTION H, PARAGRAPH 4, OF THIS SECTION DOES NOT APPLY. WITHIN THIRTY
13 DAYS AFTER APPLICATION FOR A CREDIT UNDER THIS SECTION OR AFTER AN AUDIT
14 UNDER THIS SUBSECTION, WHICHEVER IS LATER, THE DEPARTMENT SHALL ISSUE A
15 WRITTEN CREDIT CERTIFICATE TO THE APPLICANT STATING THAT THE CREDIT IS NOT
16 SUBJECT TO RECAPTURE.

17 ~~E.~~ F. Co-owners of a motion picture production company, including
18 partners in a partnership, members of a limited liability company and
19 shareholders of an S corporation as defined in section 1361 of the internal
20 revenue code, may allocate the credit allowed under this section among the
21 co-owners on any basis without regard to their proportional ownership
22 interest. The total of the credits allowed all such owners of the motion
23 picture production company may not exceed the amount that would have been
24 allowed for a sole owner of the company.

25 ~~F.~~ G. If the allowable tax credit for a taxpayer exceeds the taxes
26 otherwise due under this title on the claimant's income, or if there are no
27 taxes due under this title, the taxpayer may carry the amount of the claim
28 not used to offset the taxes under this title forward for not more than five
29 consecutive taxable years' income tax liability.

30 ~~G.~~ H. All or part of any unclaimed amount of credit under this
31 section may be sold or otherwise transferred under the following conditions:

32 1. A single sale or transfer may involve one or more transferees, and
33 a transferee may in turn resell or transfer the credit subject to the same
34 conditions of this subsection.

35 2. Both the transferor and transferee must submit a written notice of
36 the transfer to the department within thirty days after the sale or transfer.
37 The transferee's notice shall include a processing fee equal to one per cent
38 of the transferee's tax credit balance or two hundred dollars, whichever is
39 less. The notice shall include:

40 (a) The name of the motion picture production company.

41 (b) The date of the transfer.

42 (c) The amount of the transfer.

43 (d) The transferor's tax credit balance before the transfer and the
44 remaining balance after the transfer.

45 (e) All tax identification numbers for both transferor and transferee.

1 (f) Any other information required by rule.
2 3. A sale or transfer of the credit does not extend the time in which
3 the credit can be used. The carryforward period of time under subsection ~~F~~
4 ~~G~~ of this section for a credit that is sold or transferred begins on the date
5 the credit was originally earned.
6 4. ~~EXCEPT AS PROVIDED BY SUBSECTION E OF THIS SECTION~~, if ~~THE~~
7 ~~DEPARTMENT DETERMINES THAT~~ a transferor was not qualified or was disqualified
8 from using the credit ~~at~~ ~~AND THE DETERMINATION WAS MADE BEFORE~~ the time of
9 the transfer, the department shall either disallow the credit claimed by a
10 transferee or recapture the credit from the transferee through any authorized
11 collection method. The transferee's recourse is against the transferor.
12 5. In the case of any failure to comply with this subsection, the
13 department shall disallow the tax credit until the taxpayer is in full
14 compliance.
15 ~~H~~. I. The department shall maintain annual data on the total amount
16 of monies credited pursuant to this section, and shall provide those data to
17 the department of commerce on request.
18 ~~I~~. J. The department, with the cooperation of the department of
19 commerce, shall adopt rules and publish and prescribe forms and procedures as
20 necessary to effectuate the purposes of this section.
21 ~~J~~. K. The credit allowed by this section is in lieu of any allowance
22 for state tax purposes of a deduction of those expenses allowed by the
23 internal revenue code.
24 ~~K~~. L. For the purposes of this section, "motion picture" and "motion
25 picture production company" have the same meanings prescribed in section
26 41-1517.
27 Sec. 4. Section 43-1163, Arizona Revised Statutes, is amended to read:
28 43-1163. Credit for motion picture production costs:
29 definitions
30 A. Beginning from and after December 31, 2005 through December 31,
31 2010, a credit is allowed against the taxes imposed by this title for motion
32 picture production costs paid by a motion picture production company in this
33 state that are directly attributable to the production of one or more motion
34 pictures in this state. The amount of the credit is equal to a percentage of
35 the amount of motion picture production costs paid in this state as follows:
36

<u>Production costs</u>	<u>Percentage credit</u>
\$250,000 - \$1,000,000	10%
\$1,000,001 - \$3,000,000	15%
More than \$3,000,000	20%

37
38
39
40 B. The department shall not allow in any year tax credits that exceed
41 the aggregate amount prescribed in section 41-1517.
42 C. The department shall not allow a credit under this section to a
43 taxpayer who has a delinquent tax balance owing to the department under this
44 title or title 42.

1 D. To qualify for a credit under this section, the motion picture
2 production company must:

3 1. Employ residents of this state in production as follows:

4 (a) In 2006, twenty-five per cent of full-time employees working in
5 this state must be residents of this state.

6 (b) In 2007, thirty-five per cent of full-time employees working in
7 this state must be residents of this state.

8 (c) In 2008 and every subsequent taxable year, fifty per cent of
9 full-time employees working in this state must be residents of this state.

10 2. Include in the production credits for each commercial motion
11 picture, other than a commercial advertisement OR MUSIC VIDEO, an
12 acknowledgement that the production was filmed in Arizona.

13 3. Receive preapproval and postapproval from the department of
14 commerce pursuant to section 41-1517.

15 E. A MOTION PICTURE PRODUCTION COMPANY THAT HAS RECEIVED A LETTER OF
16 QUALIFICATION AND IS APPROVED BY THE DEPARTMENT OF COMMERCE PURSUANT TO
17 SECTION 41-1517, SUBSECTIONS I AND K, AT ITS EXPENSE, MAY VOLUNTARILY SUBMIT
18 TO AN AUDIT OF ITS PRODUCTION COSTS AND OTHER OPERATIONAL REQUIREMENTS
19 PRESCRIBED BY SECTION 41-1517 AND BY THIS SECTION, BY EITHER THE DEPARTMENT
20 OF REVENUE, PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7, OR BY AN INDEPENDENT
21 CERTIFIED PUBLIC ACCOUNTANT IN THIS STATE, TO CONFIRM ITS QUALIFICATION FOR A
22 CREDIT UNDER THIS SECTION. THE AUDITOR SHALL TRANSMIT CERTIFIED COPIES OF
23 THE FINDINGS AND CONCLUSIONS OF THE AUDIT TO THE DEPARTMENT OF COMMERCE, THE
24 DEPARTMENT OF REVENUE AND THE MOTION PICTURE PRODUCTION COMPANY. IF THE
25 AUDIT CONFIRMS THAT THE COMPANY QUALIFIES UNDER SECTION 41-1517 AND FOR THE
26 CREDIT UNDER THIS SECTION, THE CREDIT IS NOT SUBJECT TO RECAPTURE,
27 DISALLOWANCE, REDUCTION OR DENIAL WITH RESPECT TO EITHER THE MOTION PICTURE
28 PRODUCTION COMPANY OR TO ANY SUBSEQUENT TRANSFEREE OF THE CREDIT, AND
29 SUBSECTION H, PARAGRAPH 4, OF THIS SECTION DOES NOT APPLY. WITHIN THIRTY
30 DAYS AFTER APPLICATION FOR A CREDIT UNDER THIS SECTION OR AFTER AN AUDIT
31 UNDER THIS SUBSECTION, WHICHEVER IS LATER, THE DEPARTMENT SHALL ISSUE A
32 WRITTEN CREDIT CERTIFICATE TO THE APPLICANT STATING THAT THE CREDIT IS NOT
33 SUBJECT TO RECAPTURE.

34 ~~E.~~ F. Co-owners of a motion picture production company, including
35 corporate partners in a partnership and members of a limited liability
36 company, may allocate the credit allowed under this section among the
37 co-owners on any basis without regard to their proportional ownership
38 interest. The total of the credits allowed all such owners of the motion
39 picture production company may not exceed the amount that would have been
40 allowed for a sole owner of the company.

41 ~~F.~~ G. If the allowable tax credit for a taxpayer exceeds the taxes
42 otherwise due under this title on the claimant's income, or if there are no
43 taxes due under this title, the taxpayer may carry the amount of the claim
44 not used to offset the taxes under this title forward for not more than five
45 consecutive taxable years' income tax liability.

1 ~~G~~ H. All or part of any unclaimed amount of credit under this
2 section may be sold or otherwise transferred under the following conditions:
3 1. A single sale or transfer may involve one or more transferees, and
4 a transferee may in turn resell or transfer the credit subject to the same
5 conditions of this subsection.
6 2. Both the transferor and transferee must submit a written notice of
7 the transfer to the department within thirty days after the sale or transfer.
8 The transferee's notice shall include a processing fee equal to one per cent
9 of the transferee's tax credit balance or two hundred dollars, whichever is
10 less. The notice shall include:
11 (a) The name of the motion picture production company.
12 (b) The date of the transfer.
13 (c) The amount of the transfer.
14 (d) The transferor's tax credit balance before the transfer and the
15 remaining balance after the transfer.
16 (e) All tax identification numbers for both transferor and transferee.
17 (f) Any other information required by rule.
18 3. A sale or transfer of the credit does not extend the time in which
19 the credit can be used. The carryforward period of time under subsection ~~F~~
20 ~~G~~ of this section for a credit that is sold or transferred begins on the date
21 the credit was originally earned.
22 4. EXCEPT AS PROVIDED BY SUBSECTION E OF THIS SECTION, if THE
23 DEPARTMENT DETERMINES THAT a transferor was not qualified or was disqualified
24 from using the credit ~~at~~ AND THE DETERMINATION WAS MADE BEFORE the time of
25 the transfer, the department shall either disallow the credit claimed by a
26 transferee or recapture the credit from the transferee through any authorized
27 collection method. The transferee's recourse is against the transferor.
28 5. In the case of any failure to comply with this subsection, the
29 department shall disallow the tax credit until the taxpayer is in full
30 compliance.
31 ~~H~~ I. The department shall maintain annual data on the total amount
32 of monies credited pursuant to this section, and shall provide those data to
33 the department of commerce on request.
34 ~~I~~ J. The department, with the cooperation of the department of
35 commerce, shall adopt rules and publish and prescribe forms and procedures as
36 necessary to effectuate the purposes of this section.
37 ~~J~~ K. The credit allowed by this section is in lieu of any allowance
38 for state tax purposes of a deduction of those expenses allowed by the
39 internal revenue code.
40 ~~K~~ L. For the purposes of this section, "motion picture" and "motion
41 picture production company" have the same meanings prescribed in section
42 41-1517.